HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No.759 of 1996

PETITIONER		Jiyaldas S/o Panjumal Singhi, resident of Sambalpur, Tehsil Bhanupratappur, Distt. Bastar at presnt R/o C/o M/s J.J. Traders, Gudiyari, Raipur (M.P)
	Vs.	
RESPONDENTS	1.	Board of Revenue, Motimahal, Gwalior (MP).
	2.	Charandas S/o Latti Gond R/o Village – Tudge Tahsil Bhanupratappur, District Bastar (MP).
	3.	Panchuram S/o Latti Gond, R/o Tudge through Legal Representative Ku. Mamta D/o late Panchuram Through – Guardian, Charandas R/o Tudge, Tehsil Bhanupratappur, Distt. Bastar.
	4.	The Sub-Divisional Officer, Kanker, District, Bastar (MP).

Present : Mr. B.P Sharma, learned counsel for the petitioner.
Mr. Parag Kotecha, learned counsel for respondents 2 and 3.
Mr. Sanjay S Agarwal, learned Govt Adv. for the State of C.G

ORAL ORDER
(Passed on 22nd June 2006)

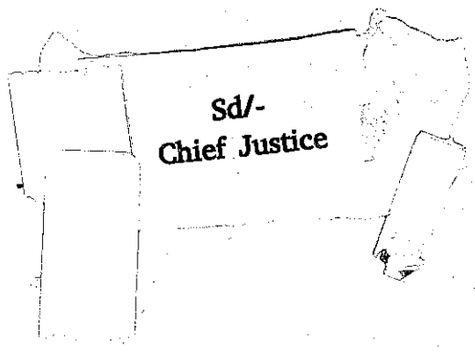
This writ petition is directed against the order of the Board of Revenue, the first respondent herein, dated 7.3.1995 dismissing the appeal of the petitioner preferred against the order of the Commissioner dated 12.2.1992.

(2) The background facts, leading to filing of this writ petition be noted in the first instance and they, in brief, are as follows: On an application made by respondents 2 and 3 to the Sub Divisional Officer, Kanker, the 4th respondent herein, the 4th respondent passed me order under Section 170-B of the Chhattisgarh Land Revenue Code, 1959 (for short 'the

Code') holding that the subject land purchased by the petitioner herein is illegal and directing restoration of the subject land in favour of respondents 2 and 3. That order was assailed by the petitioner before the Collector, Bastar District by way of an appeal. The Collector, Bastar District allowed the appeal and set aside the order of the 4th respondent. Feeling aggrieved by the said order of the Collector, respondents 2 and 3 preferred further appeal to the Commissioner. When the said appeal was pending, Panchuram, the third respondent herein, died in the month of August, 1989. The legal representatives of deceased Panchuram made an application before the Commissioner to come on record and that application was allowed, but, the names of the legal representatives are not shown in the cause-list. This defect continued. The Commissioner, ultimately, allowed the appeal of respondents 2 and 3 and set aside the order of the Collector, Bastar district and restored the order of the 4th respondent. Since the names of the L.Rs.of the respondent no. 3 are not mutated in the cause-list, that mistake continued and even in the certified copy of the order of the Commissioner the said mistake crept in. With such defective certified copy of the order of the Commissioner, the petitioner herein preferred revision to the Board of Revenue, the 1st respondent herein. When the said defect was noticed after considerable delay, the petitioner moved an application dated 4.1.1995 to show the names of the L.Rs. of deceased Panchuram in place of the name of Punchuram. Since there was delay in moving that application, the Board of Revenue not only dismissed the application moved by the petitioner but also dismissed the appeal itself by the impugned order.

(3) I heard learned counsel for the parties. The reason given by the Board of Revenue to dismiss the application as well as the main appeal

itself is totally untenable and unjustified. The mistake was crept in the certified copy of the order of the Commissioner not due to any lapse on the part of the petitioner, but, due to a serious lapse on the part of respondents 2 and 3 and/or their counsel. When the Commissioner allowed the application to bring L.Rs of deceased Punchuram, the legal representatives and their counsel ought to have mutated the cause title within the permissible time. Their lapse cannot be put against the petitioner to dismiss his legal action. In that view of the matter, I allow the writ petition and set aside the impugned order of the Board of Revenue and allow the application of the petitioner dated 4.1.1995, as prayed for, and Miss Mamta is ordered to be shown as legal representative of the deceased Punchuram as respondent no.3 in the array of the parties in the revision filed before the Board of Revenue. The proceedings are remanded to the Board of Revenue with a direction to dispose of the revision on merit in accordance with law, expeditiously, at any rate, within a period of 6 months from the date of receipt of a copy of this order.



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